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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,298	02/28/2002	Brian P. LaMothe	1787-70800	7536
23505	7590	05/15/2006		EXAMINER
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			NGUYEN, MINH DIEU T	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/085,298	LAMOTHE ET AL.
	Examiner Minh Dieu Nguyen	Art Unit 2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 April 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-62 is/are pending in the application.  
 4a) Of the above claim(s) 1-7 and 16-61 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 8-15 and 62 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Amendment***

1. This action is in response to the communication dated April 18, 2006. Claims 8-15 and 62 are pending.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action dated March 28, 2006 is withdrawn. The office regrets any inadvertence or inconvenience due to the applicant.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 8-15 have been fully considered but they are not persuasive. Applicant argues there is not any mention of a non-volatile storage device holding a plurality of programs comprising at least a program to perform flow calculations, a program to perform PLC functions and a program to perform RTU functions. The examiner contends Allen discloses a program allows selectively modifying the working properties of the refueling equipment, e.g., changing the respective flow rates of the fuel pump (paragraph [0006], i.e. a program to perform flow calculations) and the program as such is stored in a non-volatile storage device (paragraphs [0036-0037], [0039-0040], [0062]). Mustafa discloses a system and method for protecting computer software product prior to its execution or installation on a computer system using the licensing system. Allen is relied upon for the teaching of plurality of programs (i.e. program products), in particular, a program to perform flow

calculations, a program to perform PLC functions or a program to perform RTU functions that these programs can be downloaded and updated in the fuel dispensing system, so it is obvious to combine Mustafa and Allen to provide a system where software is securely protected as software is one of the most valuable technologies of the Information Age (Mustafa [0001]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 10 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567).

a) As to claim 8, Mustafa discloses a method and apparatus for preventing unauthorized reproduction and/or execution of the protected software comprising a computer system (Fig. 1A, element 5), Mustafa also discloses computer means essentially any type of computing device or machine that is capable of running a software product (page 8, paragraph [0073]), therefore the computer system anticipates a microcontroller having the ability to execute programs stored on a first non-volatile storage device (i.e. CD-ROM, Fig. 19), the microcontroller also having a second non-volatile storage device coupled to the microcontroller (i.e. dongle storing license terms, Fig. 1A, element 10), a method comprising accessing a key entry stored on the second

non-volatile storage device, the key entry identifying programs on the first non-volatile storage device licensed for execution on the microcontroller and limiting use of the programs stored on the first non-volatile storage device based on the key entry on the second non-volatile storage device (Fig. 2).

Mustafa does not expressly disclose the plurality of programs comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions.

Allen is relied on for the teaching of plurality of programs comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions (Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of plurality of programs comprising at least a program to perform flow calculations, a program to perform PLC functions, and a program to perform RTU functions in the system of Mustafa as Allen teaches so as to selectively manage the use of software in the system, in particular the software performing flow calculating/dispensing.

- b) As to claim 10, Mustafa, as modified discloses wherein accessing a key entry (i.e. license terms) stored on the second non-volatile device further comprises reading the key entry from the second non-volatile storage device across an interface bus (i.e. I/O port, page 2, paragraph [0037]).
- c) As to claim 62, Mustafa, as modified discloses the microcontroller limits the number of instances of the flow program to perform flow calculations, the limit based

on license information on the second non-volatile storage device (page 1, paragraph [0008], [0010]).

7. Claims 9, 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) and further in view of Hsu et al. (5,812,662).

Mustafa discloses second non-volatile storage device (i.e. dongle storing license terms) and reading the key entry across an interface bus (i.e. I/O port anticipates serial peripheral interface). However he does not expressly disclose the second non-volatile storage device comprises a read only memory device (ROM) device (claim 9) and wherein reading the key entry from the ROM device comprises reading a serial EEPROM (claims 11-12).

Hsu discloses a method and apparatus to protect computer software comprising dongle with non-volatile memory (i.e. EEPROM, ROM, EPROM, flashROM) (col. 2, lines 55-64; col. 6, lines 60-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of second non-volatile storage device comprising a ROM and/or EEPROM in the system of Mustafa and Allen, as Hsu discloses so as to safely hold the license terms when losing power.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mustafa (2003/0028786) in view of Allen et al. (2001/0034567) in view of Hsu et al. (5,812,662) and further in view of Microchip Technology Inc.

Hsu discloses serial EEPROM comprises a part number 93C46. However he does not disclose the serial EEPROM comprises a part number 25LC040-I device manufactured by Microchip Technology Inc.

Microchip discloses serial EEPROM 25LC040-I designing to interface directly with the serial peripheral interface port of many popular microcontroller (datasheet).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of Microchip 25LC040-I in the system of Mustafa, Allen and Hsu, as Microchip discloses so as to improve the system performance.

9. As to claim 14, the examiner takes official notice that use of inter-integrated circuit bus in serial interfacing peripherals chips to microcontrollers is quite well-known in bus interfacing.

Inter-integrated circuit bus is a serial interface standard defined by Phillips Semiconductor in the early 1980's.

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of inter-integrated circuit bus in the system of Mustafa so as to maximize system efficiency.

***Conclusion***

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER